

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 321N.2(8), the Iowa Department of Transportation, on February 22, 2017, adopted new Chapter 540, “Transportation Network Companies,” Iowa Administrative Code.

Notice of Intended Action for these rules was published in the January 18, 2017, Iowa Administrative Bulletin as **ARC 2907C**.

This rule making implements the Department’s rights and responsibilities afforded to it under Iowa Code chapter 321N in order to regulate transportation network companies and assist in ensuring the safety and security of the public at large.

A transportation network company (TNC) is an entity that uses a digital network to connect TNC riders to TNC drivers who provide prearranged rides. The Department exclusively controls, supervises, and regulates TNCs, TNC drivers, and personal vehicles used by TNC drivers.

A TNC is prohibited from operating in Iowa without a permit issued by the Department. To obtain a permit, a TNC must submit an application to the Department containing specific identification information, a \$5,000 application fee, a signed statement agreeing to comply with the requirements of Iowa Code chapter 321N, and proof of all of the following: the TNC complies with all applicable insurance requirements, the TNC has established a zero tolerance policy for the use of drugs and alcohol, the TNC requires drivers’ vehicles to comply with all applicable motor vehicle equipment requirements, the TNC has adopted and is enforcing nondiscrimination and accessibility policies, and the TNC has established record retention guidelines for records relating to drivers and prearranged rides. If the Department determines that the TNC is in compliance with the provisions of Iowa Code chapter 321N, the Department shall issue a permit to the TNC. If granted, the permit is valid for one year.

The Department may deny issuance of a permit if the Department determines, and evidence demonstrates, that the TNC is not in compliance or is unable to comply with the provisions of Iowa Code chapter 321N. The TNC may amend the application under certain circumstances and must inform the Department of the changed circumstances for which an amendment is required.

The Department may suspend a TNC’s permit for a violation of Iowa Code chapter 321N or these rules until the TNC demonstrates that the TNC is in compliance with the applicable requirements. The Department may revoke a TNC’s permit for continued noncompliance. To determine whether a TNC is in compliance with the applicable requirements, the Department may examine a TNC’s records, including a random sample of the TNC’s records related to drivers and prearranged rides. An examination is required to take place at the Department’s motor vehicle division building unless another location is agreed to by the Department and the TNC, and such examinations may not occur more than twice per year unless additional examinations are necessary to investigate a complaint.

TNCs are required to renew the application if the TNC intends to hold a valid permit after the expiration of an existing permit.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These rules are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code chapter 321N.

These rules will become effective April 19, 2017.

The following amendment is adopted.

Adopt the following new 761—Chapter 540:

CHAPTER 540
TRANSPORTATION NETWORK COMPANIES

761—540.1(321N) Purpose and applicability. This chapter implements the permitting and regulation requirements of Iowa Code chapter 321N, and applies to transportation network companies and transportation network company drivers.

761—540.2(321N) Definitions. The definitions in Iowa Code section 321N.1 are hereby made part of and fully incorporated in this chapter.

761—540.3(321N) General information.

540.3(1) Information and location. Applications, forms, electronic or otherwise, and information regarding transportation network company permits are available by mail from the Office of Vehicle and Motor Carrier Services, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at (515)237-3268; by e-mail at omcs@iowadot.us; by facsimile at (515)237-3225; or on the department's Web site at www.iowadot.gov.

540.3(2) Complaints. Complaints against transportation network companies pertaining to the provisions of Iowa Code chapter 321N and this chapter that are within the regulation and jurisdiction of the department shall be submitted in writing to the office of vehicle and motor carrier services.

761—540.4(321N) Application for transportation network company permit and supporting documents.

540.4(1) Application. An application for a transportation network company permit shall be made to the office of vehicle and motor carrier services on a form designated by the department, electronic or otherwise, and prescribed for that purpose. The form shall require all of the following:

- a. The transportation network company's full legal name and tax identification number.
- b. The address of the transportation network company's principal place of business.
- c. If incorporated or otherwise organized, the transportation network company's state of incorporation or organization.
- d. The name, address, telephone number and e-mail address of the person submitting the application on behalf of the transportation network company.
- e. A statement confirming the transportation network company's agreement to comply with all applicable requirements of Iowa Code chapter 321N and this chapter, signed by the transportation network company's authorized representative.
- f. The name and address of the transportation network company's agent for service of process in the state of Iowa.
- g. The name by which the transportation network company will do business in the state of Iowa, if different from the transportation network company's full legal name.
- h. A description of the transportation network company's digital network and the means or manner by which it may be accessed by the transportation network company's drivers and riders. This paragraph is not intended to and shall not be construed as requiring the disclosure of information proprietary to the transportation network company.
- i. The name, address, telephone number and e-mail address of the person through whom the department may coordinate examination of the transportation network company's records as required by Iowa Code section 321N.2(5).

540.4(2) Application fee. An application for a transportation network company permit shall be accompanied by the fee required by Iowa Code section 321N.2. The fee shall be made payable to the Iowa Department of Transportation by cash, check, money order, or other means acceptable to, and offered by, the department.

540.4(3) Supporting documents. An application for a transportation network company permit shall be accompanied by the following:

- a. Proof of compliance with the financial responsibility requirements of Iowa Code section 321N.4. Proof of compliance shall be submitted by providing a valid certificate of coverage from an insurer governed by Iowa Code chapter 515 or 518, or by a surplus lines insurer governed by Iowa Code

chapter 515I. The certificate of coverage shall demonstrate coverage in the amounts and circumstances required by Iowa Code section 321N.4, and shall certify that if insurance maintained by a transportation network company driver under Iowa Code chapter 321N lapses or does not provide coverage in the amounts or types required by Iowa Code section 321N.4, subsection 2 or 3, the insurance certified in the certificate of coverage shall provide coverage in the amounts and types required by Iowa Code section 321N.4, subsection 2 or 3, beginning with the first dollar of the claim, and the insurer providing such coverage shall defend the claim. The certificate of coverage shall also certify that the coverage therein is not dependent on the insurer of a transportation network company driver's personal vehicle first denying a claim, and does not require the insurer of a personal automobile insurance policy to first deny a claim to trigger coverage and defense under the coverage certified.

b. Proof that the transportation network company has established a zero tolerance policy for the use of drugs and alcohol as provided in Iowa Code section 321N.3(5). The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to transportation network company drivers and the manner or means by which the policy is enforced.

c. Proof that the transportation network company has adopted and is enforcing nondiscrimination and accessibility policies. As used herein, "nondiscrimination policy" means a policy that prohibits discrimination against transportation network company riders on the basis of race, age, disability, religion, color, sex, or national origin. "Accessibility policy" means a policy that prohibits discrimination against and assures equal opportunity and access to transportation network company riders who are persons with disabilities under the Americans with Disabilities Act of 1990 (ADA) as amended by the ADA Amendments Act of 2008 (P.L. 110-325) codified at 42 U.S.C. 12101 et. seq. The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to transportation network company drivers and the manner or means by which the policy is enforced.

d. Proof that the transportation network company has established record retention guidelines that comply with the requirements of Iowa Code section 321N.2(2). The transportation network company shall provide a written copy of the applicable policy and an explanation of the manner or means by which the policy is made known to the designated records retention officer or responsible staff and the manner or means by which the policy is enforced.

e. Proof that the transportation network company has established a means for informing persons seeking approval to serve as transportation network company drivers of their notification obligations under Iowa Code section 321N.3(2). The transportation network company shall provide a copy of the disclosure form used by the transportation network company to inform such persons of the notification obligations under Iowa Code section 321N.3(2) and an explanation of the manner or means by which the disclosure form is made known to and signed by such persons.

f. Proof that the transportation network company has established a means for making the automobile insurance disclosures required by Iowa Code section 321N.5 to persons serving as transportation network company drivers. The transportation network company shall provide a copy of the written disclosure used by the transportation network company and an explanation of the manner or means by which the written disclosure is made known to transportation network company drivers.

g. Proof that the transportation network company has established a means for making the driver and vehicle disclosures required by Iowa Code section 321N.7 to transportation network company riders. The transportation network company shall provide an explanation of the manner or means by which the disclosure is made known to transportation network company riders.

h. Proof that the transportation network company has established a means for transmitting an electronic receipt to transportation network company riders as required by Iowa Code section 321N.8. The transportation network company shall include a sample, representative receipt and an explanation of the manner or means by which the receipt is delivered and the time frame within which the receipt is delivered.

i. If incorporated or organized, a copy of the transportation network company's certificate of good standing from the transportation network company's state of incorporation or organization.

j. Other such documents as requested by the department.

761—540.5(321N) Issuance of permit. A transportation network company shall not operate or conduct business in the state of Iowa without a valid permit issued under this chapter. Upon submission of a completed application package as set forth in rule 761—540.4(321N), the department shall process the package and shall inform the transportation network company of the package’s status no later than 30 days after the department receives the package. Application package statuses for the purpose of this rule are as follows: “in process,” “granted,” and “denied.” If the department informs a transportation network company that the application is “in process,” then the department shall also inform the transportation network company of the reason for the status. If the department determines that the transportation network company is in compliance with the provisions of Iowa Code chapter 321N and this chapter, the department shall issue a permit to the transportation network company. A permit, when issued, shall be valid for one year. The department may deny issuance of the permit if the department determines, and evidence demonstrates, that the transportation network company is not in compliance or is not able to comply with the provisions of Iowa Code chapter 321N or this chapter.

761—540.6(321N) Amendment to transportation network company permit. If during the period the permit is valid any information required and presented in the application under paragraph 540.4(1) “a,” “b,” “c,” “f,” “g” or “i” changes, the transportation network company shall notify the office of vehicle and motor carrier services of the change in writing, within 30 days after the change. Notification shall include the permit number and a recitation of the information that has changed and that should be updated in the department’s records. Submission of amended information is not a request for a new permit or for permit approval and shall not extend the period the permit is valid. Upon determination that the information submitted is complete and correct, the department shall update its records and issue an amended permit, if the department determines it is necessary.

761—540.7(321N) Suspension. If the department determines that the transportation network company has violated Iowa Code chapter 321N or this chapter and the violation is more than an isolated event and remains uncorrected, the department shall issue to the transportation network company a written notice of the violation. The written notice shall specify the violation and shall advise the transportation network company that failure to remedy the violation and to comply with the applicable requirements within 30 days shall result in the issuance of a written notice of suspension of the permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa. If the transportation network company fails to remedy the violation within 30 days, the department shall issue to the transportation network company a written notice of suspension of the permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa, which shall be effective 30 days after service of the written notice of suspension. Once effective, the suspension shall remain in effect until the transportation network company demonstrates to the department that it is in compliance with the applicable requirements or the permit is revoked or expires, whichever occurs first.

761—540.8(321N) Revocation. If the department determines that the transportation network company is in continued noncompliance with Iowa Code chapter 321N or this chapter, the department shall revoke the transportation network company’s permit and the privilege to operate or conduct business as a transportation network company in the state of Iowa. Notice of revocation shall be in writing, shall specify the continued noncompliance, and shall be effective 30 days after service of the written notice of revocation. The period of revocation shall be for at least 90 days, and shall continue thereafter until the following criteria are satisfied: (1) The transportation network company submits a new application, application fee, and supporting documents under rule 761—540.4(321N), and (2) the department determines a new permit should be issued, pursuant to rule 761—540.5(321N). As used in this rule, “continued noncompliance” means a violation of Iowa Code chapter 321N or this chapter for which a notice of suspension has become effective and has remained in effect for a period of at least 180 days.

761—540.9(321N) Appeal.

540.9(1) A transportation network company whose permit has been suspended, revoked, or denied may request an informal settlement or a contested case proceeding as provided in 761—Chapter 13 to contest said action.

540.9(2) The request shall be submitted in writing, to the director of the office of vehicle and motor carrier services, at the address indicated in subrule 540.3(1), and may be submitted electronically by facsimile, e-mail or other means prescribed by the department. To be timely, the request must be submitted within 20 days of service of the notice of suspension, revocation, or denial. Failure to contest denial of a permit application does not preclude the transportation network company from submitting a new application for a permit at any time after the denial.

540.9(3) When the department receives a properly submitted, timely request for an informal settlement or contested case proceeding or an appeal of a presiding officer's proposed decision regarding a suspension or revocation, the department shall stay the suspension or revocation pending resolution of the informal resolution, contested case, or appeal.

761—540.10(321N) Renewal.

540.10(1) A transportation network company that has been issued and holds a valid permit may renew the permit by submitting, at minimum, the following: (1) the application, (2) the application fee and (3) the supporting documents as set forth in rule 761—540.4(321N). The application for renewal must be submitted no more than 60 days before the expiration date of the existing permit and no fewer than 30 days before the expiration date of the existing permit.

540.10(2) Pursuant to Iowa Code section 17A.18(2), when a transportation network company has made a timely and sufficient application for the renewal of a valid permit, the existing permit does not expire until the application has been finally determined by the department, and, in case the application is denied or the terms of the new permit are limited, until the last day for seeking judicial review of the department's order or a later date fixed by order of the department or the reviewing court.

540.10(3) If the application for renewal is submitted fewer than 30 days before the expiration date of the existing permit, then the application shall be considered a new application and Iowa Code section 17A.18(2) shall not apply. If a transportation network company does not file a renewal application pursuant to this rule, then the original application shall expire on the expiration date set forth on the original permit.

540.10(4) If a transportation network company initiates an appeal, informal settlement, or contested case proceeding pursuant to rule 761—540.9(321N) and the original application expires pursuant to the expiration date of the application, then the transportation network company shall be required to submit a renewal application pursuant to subrule 540.10(1) if the transportation network company intends to hold a valid permit under this chapter once the appeal, informal settlement, or contested case proceeding has been finally determined.

These rules are intended to implement Iowa Code chapter 321N.

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